

United States Senate

WASHINGTON, DC 20510

December 20, 2013

1260

The Honorable Tom Wheeler
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Chairman Wheeler:

We write to express our opposition to the Federal Communications Commission's (FCC) continued defense of the Multi-Market Study of Critical Information Needs (CIN Study). This proposed 2014 field test includes a qualitative media analysis that is inconsistent with the First Amendment, and could lead to the FCC exerting undue federal government influence over our private news journalism industry. Americans cherish the First Amendment and they expect their government to protect free speech, not restrain it.

In a House hearing this month, it was confirmed that a consulting group, Social Solutions International (SSI), had been working with the FCC on plans to survey news organizations and their employees. At that hearing you asserted these efforts were not an attempt to "influence the media." However, we remain concerned that the proposed CIN Study sets a bad precedent for government involvement and research into general news practices and decision-making.

Former FCC Commissioner Robert McDowell has argued this proposal wrongly inserts the government into areas of editorial discretion. Some of the questions proposed within the CIN Study appear irrelevant and run counter to the Commission's mandate to serve our constituents. Additionally, it is unclear why the scope of the proposed CIN Study has been limited to Columbia, South Carolina. The original proposal would have included multiple markets, diverse in size and geographic location, and the FCC's rationale for focusing its questioning exclusively on Columbia news organizations has not been explained.

We hope you would agree that no agency of the federal government should interfere or play referee with Americans' Constitutionally-guaranteed right to free speech. For these reasons, we urge you to work with your colleagues at the Commission to ensure the Fairness Doctrine that was fully repealed in 2011 does not come back under a new guise.

The Commission's role is not to question private journalistic standards and practices. Instead of spending scarce federal dollars on an endeavor that has been referred to as the "Fairness Doctrine 2.0," the Commission should instead focus its efforts on addressing the American people's top priority – facilitating access to advanced communications services within the confines of its statutory authority. Thank you for your attention and consideration to this matter.

Sincerely,



Deb Fischer
United States Senator



Tim Scott
United States Senator



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

April 15, 2014

The Honorable Deb Fischer
United States Senate
825 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Fischer:

Thank you for your letters expressing concerns regarding the FCC's Critical Information Needs (CIN) study. I understand your interest, and I want to be clear that I had my own concerns regarding the proposed Research Design when I first heard of the issue in December 2013 – within the first few weeks of my Chairmanship.

The development of the Research Design was intended to aid the Commission in meeting its obligations under Section 257 of the Communications Act. Section 257 directs the Commission to identify and eliminate "market entry barriers for entrepreneurs and other small businesses in the provision and ownership of telecommunications services and information services." The statutory provision expressly links our obligation to identify market barriers with the responsibility to "promote the policies and purposes of this chapter favoring diversity of media voices." Finally, Section 257 requires the Commission to review and report to Congress on "any regulations prescribed to eliminate barriers within its jurisdiction ... that can be prescribed consistent with the public interest, convenience, and necessity."

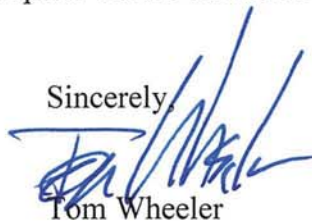
I agree with you, and others that had similar concerns, that the approach outlined in the "Qualitative Analysis" portion of the Research Design was not appropriate. As an initial first step, I asked Commission staff to eliminate – in its entirety – that portion of the study. Upon further reflection, I decided that the study should not go forward at all. This does not mean that the Commission is abandoning its obligations under Section 257, or our review of diversity issues as part of the remand from the Court of Appeals for the Third Circuit. I take these responsibilities seriously, and want to ensure we approach them in the proper manner by seeking public input on the best way forward, and addressing any concerns head-on.

I do want to take the opportunity to clear up some continued misconceptions surrounding this topic: (1) I made clear early on, and I reassert now, that I do not intend to re-establish the Fairness Doctrine, or to impose any government mandates in violation of the First Amendment; (2) Final expenditures are still being calculated, but there was never more than \$500,000 allocated for the first phase of the CIN study, which included the Research Design, the Pilot, and other activities related to the test market study which has since been terminated; and (3) The Commission has many priorities, including the duty to promote diversity in the communications market, and having reliable data on how the markets function and serve the public is essential to

our underlying responsibilities in the Communications Act – including our quadrennial review of media ownership rules.

I hope you find this information helpful. Please let me know if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Wheeler", with a stylized flourish extending from the end.

Tom Wheeler



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

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Tom Wheeler